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8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**  
12

13 In the Matter of the Accusation Against:

Case No. 2008-368

14 **DANIEL BURTON LAMKE**  
1094 Regile Lane  
15 Ville Platte, Louisiana 70586

**A C C U S A T I O N**

16 Registered Nurse License No. 651069

17 Respondent.  
18

19 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

20 **PARTIES**

21 1. Complainant brings this Accusation solely in her official capacity as the  
22 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer  
23 Affairs.

24 **License History**

25 2. On or about January 18, 2005, the Board issued Registered Nurse License  
26 Number 651069 ("license") to Daniel Burton Lamke ("Respondent"). The license expired on  
27 September 30, 2006, and has not been renewed.

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1 CAUSE FOR DISCIPLINE

2 (Out-of-State Discipline)

3 8. Respondent's license is subject to disciplinary action under Code section  
4 2761, subdivision (a)(4), on the grounds of unprofessional conduct, in that Respondent's nursing  
5 license has been disciplined by the Louisiana State Board of Nursing ("Louisiana Board").  
6 Effective January 25, 2008, in the case entitled, *In the Matter of: Daniel Burton Lamke*, pursuant  
7 to the Findings of Fact and Consent Order, Respondent's Registered Nurse License was  
8 suspended, with the suspension stayed, and placed on probation for a minimum of three years  
9 contingent upon terms and conditions of probation, including remaining free from alcohol and all  
10 unprescribed mood altering substances and submitting to supervised random drug screens a  
11 minimum of 24 times per year.

12 The circumstances underlying the disciplinary action are that in a prior  
13 disciplinary action filed by the Louisiana Board, effective March 29, 2007, Respondent's  
14 Registered Nurse License was suspended, with the suspension stayed, and Respondent placed on  
15 two years probation with stipulations, including receiving no unsatisfactory work performance  
16 evaluations and remaining free from alcohol and all unprescribed mood altering substances.  
17 During probation, the Louisiana Board received unsatisfactory performance evaluations and a  
18 notice of termination from Respondent's employer for "unsatisfactory work performance" and  
19 "lack of capability to practice nursing consistent, with reasonable skill and safety to patients." A  
20 copy of the Consent Order is attached as **Exhibit A**, and is incorporated herein.

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1 PRAYER


2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 651069 issued  
5 to Daniel Burton Lamke;

6 2. Ordering Daniel Burton Lamke to pay the Board the reasonable costs of  
7 the investigation and enforcement of this case, pursuant to Code section 125.3; and,

8 3. Taking such other and further action as deemed necessary and proper.  
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10 DATED: 7/24/08  
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13 RUTH ANN TERRY, M.P.H., R.N.  
14 Executive Officer  
15 Board of Registered Nursing  
16 Department of Consumer Affairs  
17 State of California  
18 Complainant  
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**Exhibit A**  
**Consent Order**

LOUISIANA STATE BOARD OF NURSING  
BATON ROUGE, LOUISIANA

IN THE MATTER OF:  
DANIEL BURTON LAMKE  
1094 REGILE LANE  
VILLE PLATTE, LA 70586

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JAN 28 2008  
CONSENT ORDER

Applicant

TERMS AGREED TO BY LICENSEE

I, DANIEL BURTON LAMKE (Applicant), voluntarily agree to sign and have terms of agreement for the purpose of avoiding a formal hearing with the Louisiana State Board of Nursing.

I, DANIEL BURTON LAMKE, do hereby say that I freely, knowingly and voluntarily enter into this agreement. I understand that I have a right to a hearing in this matter and I freely waive such right. I understand that I have a right to legal counsel prior to entering into this agreement.

I admit to and acknowledge that the Louisiana State Board of Nursing makes the following FINDINGS OF FACT:

1. On June 29, 2001, Applicant was licensed by examination to practice as a registered nurse in Louisiana.
2. On January 26, 2007, while on duty in the Emergency Department (ED) as a registered nurse with Savoy Medical Center, Applicant left his duty station and was in another department arguing with spouse. Applicant received write-up on "Performance Improvement" form for this incident and Applicant stated to supervisor the need to go home with no medical reason for leaving. ED was left short one nurse. Applicant received a write-up on, "Disciplinary Action Report" form as this was the third time to leave early from a scheduled shift.
3. On February 10, 2007, Applicant requested to leave shift early, because of personal stress.
4. On February 11, 2007, Applicant reported to work in ED exhibiting signs of impairment to include stumbling with slurred speech, unable to carry out the duties in the ED and unable to safely care for patients. Applicant was temporarily suspended.
5. On February 12, 2007, Applicant went to the Nursing office at Savoy Medical Center, crying and asking for help. Applicant reported was currently being treated for depression, anxiety and insomnia related to family issues.
6. On February 12, 2007, Applicant was admitted to Vermillion Hospital per Physician's Emergency Commitment.
7. On February 15, 2007, Applicant released from Vermillion Hospital and returned to work in the ED on day shift.
8. On February 21, 2007, Applicant received "Disciplinary Action Report" form for a serious written warning, that restricted Applicant from entering another work area of the hospital, and Applicant could not work while taking narcotics and amphetamines, even if these medications were prescribed.
9. On March 8, 2007, while on duty in the Emergency Department, Applicant approached two physicians for a prescription for nerve medication and was only able to see two (2) patients during his ED shift. Physician reported that Applicant appeared on the edge of a nervous breakdown, was almost manic and could not concentrate on ED issues.
10. On March 12, 2007, Applicant was suspended for repeated tardiness, excessive absence, unauthorized time away from emergency department during shift, frequently leaving work early, difficulty concentrating and staying focused, approaching physicians while on duty for medication (narcotics, etc) for anxiety, poor job performance and showing both signs of exhaustion and hyperactivity. Applicant was requested by employer to submit to a drug screen.

LOUISIANA STATE BOARD OF NURSING  
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JAN 28 2008  
CONSENT ORDER

Applicant

TERMS AGREED TO BY LICENSEE (Cont'd)

11. Applicant's drug screen results were reported positive for Methadone and Amphetamines. Applicant did not have a prescription for methadone, but had prescriptions for Ativan, Xanax and Lortab.
12. On March 12, 2007, Applicant was suspended from Savoy Medical Center and instructed to enroll in mandatory EAP within 24 hours. Applicant enrolled and began attending counseling sessions.
13. On or about March 15, Applicant was offered an opportunity to enter the Recovering Nurse Program (RNP). Applicant reported to the Recovering Nurse Program staff that: Methadone was from a friend, because Applicant wasn't taking Lortab for pain and no longer taking Xanax, but taking Ativan 2-3 times a week. On March 15, 2007, Applicant denied drug dependence and declined RNP services.
14. On March 29, 2007, Applicant signed a Consent Order with the Board for suspension with a stay of suspension and probation for a minimum of two (2) years with stipulations to include employment evaluations with no adverse reports.
15. On October 31, 2007, Applicant was terminated from employment at Savoy Medical Center for "Unsatisfactory work performance" and "lack of capability to practice nursing with consistent, reasonable skill and safety to patients". Documents were submitted of the following incidents:
  - 10/30/07 LSBN Performance evaluation report - Rated as "Needs Improvement" on "Attendance" and "Works as Team Member". Statements included: "Overall does well but has days that reflected problems in his personal life, i.e. not sleeping or eating, coming into work on time yet unshaven (shaves in staff BR when there is a break in pt. care)" " . . . has had days where wasn't at all able to work with team" 10/23/07 "Came to work - sleepy, sluggish. House supervisor was called by coworker and found Daniel sleeping in chair easily awakened." " . . . suspension as of 10/25/07".
  - 10/25/07 DISCIPLINARY ACTION REPORT - Suspended for "Misconduct". Employee admitted to Director and CNO 'No, I wasn't capable of taking care of patients Tuesday'."
  - 10/23/07 PERFORMANCE IMPROVEMENT form. "Co-worker reported does not feel safe working with Daniel. Daniel was found sleeping in chair." "Co-worker reports that Daniel said 'got drunk last night'. "Daniel is sluggish and reports to me that he did not get sleep past 3 days. "Concerned about employee's ability to carry out duties at present time".
16. On December 21, 2007, after receipt of the adverse report, Applicant's license was suspended pursuant to the Consent Order of March 29, 2007, for failure to comply with a Board Order.
17. On January 2, 2008, the Board received a request for reinstatement of his nursing license.
18. On January 2, 2008, the Board received Applicant's Psychological evaluation from M. Lucy Freeman, PhD, who recommended counseling. Applicant was seen for Psychiatric/Chemical Dependency evaluation on November 21, 2007 by Michael Prejean, MD. He was started on medications for depression.
19. On January 23, 2008, as recommended by the treatment team, Applicant began therapy with Kenneth Binns.
20. On January 25, 2008, Applicant met with staff in conference to discuss this Consent Order.

LOUISIANA STATE BOARD OF NURSING  
BATON ROUGE, LOUISIANA

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VILLE PLATTE, LA 70586

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CONSENT ORDER

Applicant

TERMS AGREED TO BY LICENSEE (Cont'd)

I hereby acknowledge that I have complied with all of the stipulations for reinstatement. I further attest to my intent to comply with all stipulations of this Consent Order.

To facilitate submission of this Consent Order, I do not offer any defense to the **FINDINGS OF FACT**. I agree that the Board has jurisdiction of this matter pursuant to L.R.S. 37:911 et seq. I admit to the findings of fact and agree that there is sufficient evidence upon which to predicate a finding of violation of the provisions of L.R.S. 37:921. I agree that the Board may treat the allegations of fact and law as true, which finding shall have the same force and effect as if evidence and argument were presented in support of the allegations and, based thereon, the Board found the allegations to be true. I specifically waive my right to contest these findings in any subsequent proceedings before the Board. I understand that this Consent Order shall constitute a public record and is disciplinary action by the Board. This will be reported to **Healthcare Integrity and Protection Data Bank (HIPDB)** as **A5 Violation or Failure to Comply with Licensing Board Order**. **HIPDB Narrative: On March 29, 2007, by Consent Order, Registrant's license was suspended with stay and stipulations, including no adverse reports. On October 31, 2007, he was terminated from employment for unsatisfactory work performance, and subsequently his license was suspended. After completion of evaluations, his license was reinstated with probation for three years.**

In order to avoid further administrative proceedings, I hereby consent to accept and abide by the following ORDER of the Board: That Registrant's licensure suspension is stayed; his license is reinstated to active status with suspension with stay and probation for a minimum of three (3) years contingent upon adherence to the following stipulations:

1. Continue to submit to all recommendations thereafter of the therapist, physician, or treatment team including individual counseling and psychiatric follow-up, and cause to have submitted written evidence quarterly of continued compliance with all recommendations by the respective professionals. This stipulation shall continue until the registrant is fully discharged by the respective professionals and until approved by the Board staff.
2. Prior to returning to work, inform all nursing employers of these disciplinary measures and of the probationary status of license. Within two weeks, shall cause all employers to submit, in writing to the Board, that they have reviewed this Order.
3. Work in a restrictive environment as a member of a treatment team rather than alone or with a few employees. Additionally, not be employed in any unsupervised setting. Must be directly supervised by an on-site registered nurse. Not be employed in agency/pool/staffing, home health services, nursing homes or critical care areas, unless prior to beginning work in this area, the employer submits a written plan for direct RN supervision, and the plan is approved by Board staff.
4. Immediately (within 72 hours) inform the Board in writing of any change in address.
5. Immediately (within 72 hours) inform the Board in writing of any change in address.
6. If employed in nursing, immediately inform the Board in writing of all places of employment. If employment changes, the Board shall be immediately (within 72 hours) notified in writing.
7. If unemployed or employed in a non-nursing position, inform the Board in writing on a quarterly basis.
8. During the period of probation, Respondent shall engage in the practice of professional nursing in Louisiana for a minimum of twenty four (24) hours per week for a minimum of twenty four (24) consecutive months.



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BATON ROUGE, LOUISIANA

JAN 28 2008

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CONSENT ORDER

Applicant

TERMS AGREED TO BY LICENSEE (Cont'd)

9. Have all immediate nursing supervisors submit a performance evaluation report monthly, commencing from the first date of employment.
10. Shall remain free of alcohol and all unprescribed mood altering substances. Any mood altering, addictive or dependency-inducing substance must be currently prescribed for a bona fide medical condition by a physician knowledgeable about the individual's history and the information underlying the Board's concerns. All prescribed drugs must be verified in writing to the Board on a specified form by the individual and the prescribing physicians within five (5) days of this date, and within five (5) day of any new prescriptions. The Board reserves the right to have a LSBN recognized addictionist review and approve the prescriptions for continued nursing practice.
11. Shall submit to supervised random drug screens a minimum of 24 times per year through an approved LSBN laboratory (bodily fluids {urine, blood, saliva} or hair may be tested). Additional screenings may be requested by Board staff. Written reports of same shall be submitted to the Board. After six (6) months may request to reduce frequency of drug screens.
12. Within six (6) months, submit payment of \$200.00 costs to the Board.
13. By the first of each month, submit a monthly probation fee of twenty-five dollars (\$25.00) to the Board.
14. Not have any misconduct, criminal violations or convictions, or violations of any health care regulations reported to the Board related to this or any other incidents.
15. Quarterly reports are due on or before the first day of January, April, July and October. Monthly reports are due on the first day of each month.
16. Failure to comply with the above orders, receipt of an unfavorable report, or non-receipt of reports on or before the date due shall result in the immediate suspension of this registrant's license. This suspension can be imposed by action of the staff subject to the discretionary review of the Board.

I, **DANIEL BURTON LAMKE**, understand that this agreement is effective immediately upon signature of the Executive Director. It is also understood that this agreement does not preclude the Board of Nursing from requiring a formal hearing of my case. I further understand that should the Consent Order not be accepted by the Board, I agree that presentation to and consideration of the Consent Order, the documentary evidence and information by the Board shall not unfairly or illegally prejudice the Board or any of its members from participation in hearings or other proceedings pertaining to these or other matters regarding this registrant.

Dated this 25<sup>th</sup> day of January, 2008.

Theresa S. Elliott

Witness

Daniel Burton Lamke  
**DANIEL BURTON LAMKE**

Charlean Kalle  
Witness

**LOUISIANA STATE BOARD OF NURSING**

Barbara L. Morvant 01/29/2008  
Barbara L. Morvant, MN, RN Date  
Executive Director